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State of California  
**Franchise Tax Board**

12.28.09

To: Leslie Lopez, Acting Director  
State and Consumer Services Agency

From: Philip Yu

**FISMA Audit for 2007 & 2009–Department of Fair Employment and Housing - Audit Report**

## Memorandum

We completed our review of the internal control structure of the Department of Fair Employment and Housing (DFEH).

### Introduction

The Legislature enacted Government Code Section 13400, which created the Financial Integrity and State Manager's Accountability Act of 1983 (FISMA). FISMA charges each state agency with the responsibility of maintaining effective systems of internal accounting and administrative program control as an integral part of its management practices. All levels of management at every state agency must be involved in assessing and strengthening these systems. The Legislature also mandated that the systems of internal control be evaluated on an ongoing basis. Anytime within a biennial period ending on December 31 of each odd-numbered year, the head of each state agency shall conduct an internal review and prepare a report on the adequacy of the system(s) of internal control. The Franchise Tax Board (FTB) internal auditors were requested to perform an internal controls review of the DFEH to comply with the reporting requirements of FISMA.

The DFEH is the largest state civil rights agency in the country. The DFEH's statutory mandate is to protect the people of California from discrimination in employment, housing and public accommodations pursuant to the California Fair Employment and Housing Act, Government Code section 12900, et seq., the Unruh Civil Rights Act, Civil Code section 51, et seq., and the Ralph Civil Rights Act, Civil Code section 51.7.

The DFEH receives and investigates discrimination complaints in eight locations throughout the State that includes Elk Grove, Bay Area, San Jose, Fresno, Bakersfield, Los Angeles, Santa Ana, and San Diego. During our review, the San Francisco and Oakland offices consolidated into one Bay Area location. Within these eight locations, nine offices handle employment cases and four offices handle housing cases. All locations handle public accommodations and hate violence cases. The DFEH also has a communications center (call center) located at the DFEH headquarters in Elk Grove, CA. In addition, there are three legal offices which litigate cases and provide legal support to the district offices. Within the legal department, there is also a special investigations unit.

The DFEH prosecutes employment and housing cases, provides technical assistance to employers, business establishments and housing providers regarding their responsibilities under the law.

### **Objectives and Scope**

The objective of the review was to assist the DFEH in complying with the reporting requirements of FISMA for 2007 and 2009. The scope of the review included performing an internal controls review of the DFEH that included activities covering the period from January 2007 through November 2009.

The review focused on the following processes and areas: cash receipts, accounts receivables, fixed assets, information technology (IT), and software management. The review determined that:

- There are adequate separation of duties
- Established policies and procedures exist
- There is proper safeguarding, accounting, and reconciliation of assets

In addition, the review also looked at the administration and handling of employment, housing, and public accommodation discrimination complaints.

### **Methodology**

To initiate the assessment, the FTB gained an understanding of the DFEH's mission and critical functions. The FTB conducted interviews with the DFEH staff, reviewed information, documentation and the DFEH's website to obtain an understanding of the DFEH's processes. Based on the information obtained through interviews, review of documentation, and risk analysis, the auditors focused on specific areas and processes to conduct additional fieldwork and testing.

### **Vacant Positions**

Documentation such as Requests for Personnel Action and Vacant Position Reports were reviewed covering the period of July 1, 2007 through June 30, 2009 to determine whether the DFEH is in compliance with Government Code (GC) Section 12439 (i.e. positions that are vacant more than 6 monthly pay periods are abolished by the State Controller's Office (SCO). We determined in one instance that the DFEH circumvented GC Section 12439 and improperly prevented a vacant position from being abolished.

A permanent position became vacant on May 17, 2008. An employee was moved from a blanket (short-term) position to the vacant permanent position for the period June 18, 2008 through June 30, 2008, and then returned to the blanket (short-term) position on July 1, 2008. The vacant permanent position was then reclassified and left vacant until an employee was placed in the position effective January 9, 2009.

Moving the employee from the blanket (short-term) position to the vacant permanent position for 13 days allowed the DFEH to circumvent GC Section 12439 and therefore, the DFEH prevented the vacant position from abolishment and avoided having the position listed on the SCO's "Abolished Vacant Position" report.

We recommend the DFEH develop procedures that include all applicable GC Section 12439 provisions, including instructions to staff to not perform inappropriate personnel transactions to preserve vacant positions that would be abolished under GC Section 12439.

### Evaluation of Risks and Controls

The following is the auditor's findings and recommendations:

#### Cash Receipts/Payment Processing:

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|----|----------------|--|
| F1 | Finding        | Inconsistent handling of payments received in the District Offices. Some District Offices process and deposit payments received while other District Offices send payments received to the Accounting unit for processing and deposit.   |
|    | Recommendation | All District Offices should process and deposit payments received per the bank deposit procedures outlined in the DFEH's Enforcement Division's Clerical Manual.   |
|    |                |  |
| F2 | Finding        | Deposits from the District Offices are not always posted timely in CALSTARS.   |
|    | Recommendation | <ul style="list-style-type: none"> <li>District Offices should follow the bank deposit procedures outlined in the DFEH's Enforcement Division's Clerical Manual.</li> <li>After a deposit is made at the bank, the District Office should forward the original deposit receipt, original Report of Deposit with copies of the checks and money orders, and the Bank Deposit Recap Sheet to the Accounting unit.</li> </ul> |
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| F3 | Finding        | No log, record, or cash receipts register is kept by the Accounting unit to document money received and placed in the safe prior to deposit.   |
|    | Recommendation | A register or log should be used to record the type of collection (such as cash, check, or money order) received from each payer. This should also be practiced in the District Offices.   |
|    |                |  |
| F4 | Finding        | The combination on the safe is not changed periodically nor has the combination been changed when an Accounting employee left the DFEH.  |
|    | Recommendation | <ul style="list-style-type: none"> <li>• The combination should be changed when an employee having knowledge of the combination leaves the DFEH or when the combination becomes known to an excessive number of employees.</li> <li>• A record should be kept showing the date the combination was last changed and names of persons knowing the present combination.</li> </ul> |
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| F5 | Finding        | There is a lack of separation of duties over the cash receipts/payment process, as well as other accounting processes in the District Offices and the Accounting unit.   |

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| F5<br>Cont. | Recommendation | <ul style="list-style-type: none"> <li>• Separation of duties should be established for all accounting processes in the District Offices and in the Accounting unit.</li> <li>• The same employee that receives cash receipts/payments should not prepare the deposit and make the deposit, nor input deposit information into CALSTARS.</li> <li>• A limited number of Accounting staff should have access to the blank check stock.</li> <li>• The same Accounting employee that has access to the blank check stock should not be completing the bank reconciliation.</li> <li>• The same Accounting employee that has access to the blank check stock should not be posting transactions in CALSTARS.</li> <li>• The same Accounting employee that has access to the blank check stock should not be preparing checks for payment.</li> </ul> |
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| F6          | Finding        | Bank reconciliations were not prepared prior to 2009 and there has been a cumulative \$10,000 outstanding reconciling item. In addition, the bank reconciliations do not have evidence of independent review.   |
|             | Recommendation | <ul style="list-style-type: none"> <li>• Monthly bank reconciliations should be completed.</li> <li>• The person reconciling the bank statement should trace every reconciling item between the bank and the DFEH's records and include an explanation for any outstanding reconciling items on the reconciliation.</li> <li>• All bank reconciliations should be reviewed and include the preparer's name, reviewer's name, date prepared, and date reviewed.</li> </ul>   |
|             |                |   |
| F7          | Finding        | No documented policies and procedures for all accounting processes.   |
|             | Recommendation | <ul style="list-style-type: none"> <li>• Written policies and procedures should be established for all accounting processes.</li> <li>• The policies and procedures should be made available to all staff.</li> </ul>   |

**Receivables:**

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| F8 | Finding        | “Accounts Receivables – Other” in the amount of \$52,203 remain outstanding as of September 30, 2009. These outstanding receivables date back to fiscal years 2001 and 2002. In addition, there is no established and documented collection process for outstanding receivables. |
|    | Recommendation | <ul style="list-style-type: none"> <li>• Attempt to collect on the outstanding receivables.</li> <li>• Develop collection procedures that will assure prompt follow-up on receivables.</li> <li>• Develop write-off procedures for uncollectible receivables.</li> </ul>         |
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**Fixed Assets:**

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| F9  | Finding        | A triennial physical property inventory has not been conducted.  |
|     | Recommendation | <ul style="list-style-type: none"> <li>• Develop a process, procedures, plan, and schedule for taking a physical property inventory.</li> <li>• Conduct a physical inventory of all property and reconcile the results with the property register and general ledger.</li> </ul> |
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| F10 | Finding        | No documented procedures for the survey and surplus of fixed assets.   |
|     | Recommendation | <ul style="list-style-type: none"> <li>• Written procedures should be established for the survey and surplus of fixed assets.</li> <li>• The procedures should be made available to all staff.</li> </ul>  |
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**Information Technology (IT):**

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| F11 | Finding        | There is a lack of separation of duties in regards to the IT inventory spreadsheet and IT equipment in the District Offices and headquarters.  |
|     | Recommendation | <ul style="list-style-type: none"> <li>• Separation of duties should be established over IT inventory in the District Offices and at headquarters.</li> <li>• A limited number of IT staff should have the capability to update the IT inventory spreadsheet.</li> <li>• IT staff that have access to IT equipment should not have the capability to update the IT Inventory spreadsheet.</li> <li>• The individual that conducts the IT inventory should not have the capability to update the IT inventory spreadsheet.</li> </ul> |
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| F12 | Finding        | Physical property inventory of IT assets has not been conducted. In addition, a plan, schedule, and procedures do not exist in regards to taking the physical inventory.   |
|     | Recommendation | <ul style="list-style-type: none"> <li>• Procedures and a plan regarding taking physical inventory of IT equipment should be developed.</li> <li>• A time schedule should be prepared with the location and the individual performing the physical inventory.</li> </ul>   |
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| F13 | Finding        | Ten newly acquired laptops were stolen from an unsecured supply room.  |
|     | Recommendation | All IT equipment should be stored in a secured room with limited staff access.   |
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| F14 | Finding        | The DFEH does not maintain a Software Management Program documented through a Software Management Plan. In addition, the annual certification and summary of updated software inventory has not been completed. |
|     | Recommendation | Develop and implement a Software Management Program that complies with SAM Sections 4846.1 and 4846.2.  |
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**CAL-Cards:**

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| F15 | Finding        | There is a lack of separation of duties over the Cal-Card process. The same employee that has a Cal-Card is performing the Cal-Card audits.   |
|     | Recommendation | <ul style="list-style-type: none"> <li>• Separation of duties should be established for all Cal-Card processes.</li> <li>• The same employee that has a Cal-Card should not perform Cal-Card audits.</li> </ul> |
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**Employment and Housing Case Files:**

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| F16 | Finding        | There is no centralized tracking and monitoring of Public Records Act (PRA) requests.  |
|     | Recommendation | <ul style="list-style-type: none"> <li>• The DFEH should centralize PRA requests. PRA requests should be centrally managed.</li> <li>• For separation of duties, the individual that receives the PRA request and payment for the PRA request should not be the one that completes the PRA request.</li> </ul> |
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## Conclusion

Based on our review, many of the identified internal control weaknesses are the result of infrastructure constraints indicative of being a small state agency. In addition to infrastructure constraints, we acknowledge limited resources and budget deficits will make it difficult to fully overcome internal control weaknesses; however, actions can be taken to strengthen internal controls and mitigate risks. The DFEH provided a response to the findings and recommendations noted in this audit report (see Attachment A).

Please note that the DFEH is required to provide the Director of Finance a plan and schedule for correcting the findings noted in this report. This plan must be submitted to the Director of Finance within 30 days of the report date. The plan must also be updated and submitted every six months until all corrections are completed.

FTB Internal Audit greatly appreciates the cooperation and assistance provided to us by the DFEH management and staff during our review. If you have any questions, please contact Andrea VanWalleghem at (916)845-3488 or Sara Sheikholislam at (916)845-7973. If you have questions about the vacant positions, please contact Carla Terrell at (916)845-3386.

Philip Yu, Director  
Internal Audit Bureau  
Franchise Tax Board

## Attachments

cc: Hon. Arnold Schwarzenegger, Governor  
Legislature, CA State Assembly  
Legislature, CA State Senate  
Elaine M. Howle, State Auditor  
Michael C. Genest, Director, Department of Finance  
Susan Hildreth, State Librarian  
Rene Gutierrez, Deputy Secretary, State and Consumer Services Agency  
Phyllis Cheng, Director, Department of Fair Employment and Housing  
Selvi Stanislaus, Executive Officer, Franchise Tax Board  
Lisa Crowe, Division Chief, Franchise Tax Board  
Lisa Garrison, Chief Financial Officer, Franchise Tax Board  
Geoff Way, Chief Counsel, Franchise Tax Board